

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TIFFANY CHRISTAIN,

Plaintiff,

v.

CARRIAGE SERVICES OF
OKLAHOMA LLC,

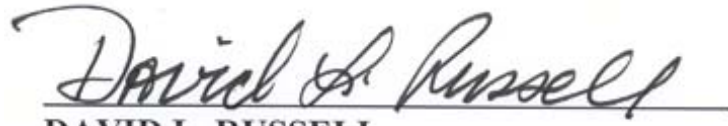
Defendant.

ORDER

All Defendants, save for Defendant Resthaven Memorial Park, filed a notice of removal in this action on September 24, 2007. In the notice of removal the removing-Defendants alleged that Resthaven Memorial Park was not a related entity and that it had been fraudulently joined so as to preclude this Court’s jurisdiction. In an effort to discern whether this Court had jurisdiction, the Court ordered the Plaintiff to respond to Defendants’ allegations of fraudulent joinder. In light of Defendants’ uncontroverted evidence that they are not related to Resthaven Memorial Park, that Resthaven Memorial Park is not a proper party to this action, and the uncontroverted assertion that Plaintiff has no action against Resthaven Memorial Park based on the allegations in her petition, the Court hereby concludes that jurisdiction based on diversity of citizenship is proper. Additionally, the Court concludes that summary judgment should be sua sponte granted to Resthaven Memorial Park, because Plaintiff cannot prevail against it. *See Carriere v. Sears, Roebuck and Co.*, 893 F.2d 98, 102 (5th Cir. 1990) (“Because we have already concluded that Sizeler was fraudulently joined, we need not consider appellant's argument on this point further. Summary judgment will always be appropriate in favor of a defendant against whom there

is no possibility of recovery.”).

IT IS SO ORDERED this 6th day of November , 2007.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE